

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2633 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE S.M.SONI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

NEW G.I.D.C. HOUSING ASSOCIATION

Versus

STATE OF GUJARAT

Appearance:

SUO MOTU for Petitioner
MR MAULIN R RAVAL for Respondent No. 1
MR HARESH J TRIVEDI for Respondent No. 2
MR BN DOCTOR for Respondent No. 3
SINGHI & BUCH ASSO. for Respondent No. 4

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE S.M.SONI

Date of decision: 15/07/97

ORAL JUDGEMENT (Per Patel, J.)

New G.I.D.C. Housing Association (hereinafter referred to as the Association) situated at Odhav GIDC

made a complaint to the authorities about noise pollution caused by Maha Gujarat Iron & Steel Co. Ltd. (the unit, for brevity) When the said complaint failed to evoke response as desired by the Association, they wrote a letter to this Court requesting to treat the letter as a public interest litigation and to initiate action against the erring unit and apathetic officials. This Court, thereupon took cognizance and issued a suo motu notice to the State, GPCB, Odhav Industries Association and the unit.

2. Gujarat Industrial Development Corporation (G.I.D.C.) has promoted and developed a housing scheme at Odhav GIDC, for low income group, especially for those who are working in GIDC Industrial Estate. It is, thus, an admitted position that the residents of the Association are residing within an industrial estate. Mr. Rawal, learned Assistant Government Pleader is not in a position to state before the Court whether the State has granted permission to construct and to occupy the said premise for residential purposes. According to his submission, it is for the GIDC to take permission of the appropriate authority. Suffice it to say that when the matter is taken up for hearing by the Court, neither the GIDC nor the State is able to state about the permission and it appears that they have not investigated the matter so as to place before the Court as to whether any permission of the appropriate authority has been obtained and/or who is responsible for permitting a residential scheme in an industrial area.

3. Learned counsel Mr. B.R. Shah submitted that the unit was established in the year 1969. It is an admitted position that before the housing scheme of the Association came into existence, the unit was established. Mr. Shah submitted that in the industrial area, there are several industrial units, small and big, and on account of use of machinery etc. noise is likely to be created.

4. Mr. Trivedi, learned counsel for the GPCB submitted that on measuring at different locations nearby the residential area, it is found that there is noise pollution. We put a pointed question to Mr. Trivedi as to from which point or place the noise is measured. It is a matter of common knowledge that if a sound or noise is measured near the source of its origin, the result would be different than the measurement taken from a distance. Mr. Trivedi submitted that the sound is measured at the place or point of the nearest receiving body. We asked Mr. Trivedi to point out the rules in

this regard, but no rules are placed before us.

5. In the rules prescribed by the GPCB as published in Part IV-C of the Gujarat Government Gazette, the standards for noise limits for automobiles and domestic appliances are prescribed at Rule 53 and 54. However, the limits are to be achieved at the manufacturing stage. Moreover, there is no indication about the 'receiving body' or from the point from where the noise is to be measured.

6. Schedule III under rule 3 of the Environment (Protection) Rules, 1986 provides for ambient air quality standards in respect of noise. Four categories of areas such as industrial area, commercial area, residential area and silence zone and the dB(A) limits of day time as well as night time are provided in this schedule. This rule is also silent at the point or place from where the noise is to be measured. The dictionary meaning of the word 'ambient' is 'surrounding'. However, as observed by us, t.....

distances are bound to vary and therefore, the limit of dB(A) at which particular distance from the source of origin is to be measured ought to have been clarified, more particularly when there is an Industrial Estate.

7. Mr. B.R. Shah, learned counsel invited our attention to the recommendations made by the Indian Standards Institution for noise abatement in Town Planning. Paragraph 3 of the said recommendations deals with the consideration for layout and locations of various zones. Paragraph 3.1.1 reads as under:-

3.1.1. The comparative study of Tables 1 and 2 empahsizes the fact that while planning a new township care has to be taken to see that the various zones are conveniently located from the noise point of view. As a general classification, the following zones may be visualised:

Zone	Noise level
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a).	Quiet	< 60 dBs
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b).	Zones of concentrated noise	60-70 dBs
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sources quite at times

c).	Zones of concentrated	70-80 dBs
	average noise sources	

d).	Zones of high noise sources	80-90 dBs
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e).	Zones of extremely high noise	> 90 dBs
	sources	

3.2 Based on the above considerations, the locations of the various types of buildings are to be considered in detail as follows:

- a) Location of aerodrommes and air routes.
 - b) Location of railway stations, routing of railway track and arterial roads;
 - c) Industrial areas;
 - d) Residential areas; and
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- 1). Office buildings, courts and council chambers;
 - 2). Shopping Centres;
 - 3). Hospitals and broadcast studios;
 - 4). Educational institutions, such as universities, colleges, and schools, libraries, national laboratories;
 - 5). Entertainment centres, such as cinemas, theatres, clubs, stadiums, swimming pools, restaurants and parks; and
 - 6). Places of worship, such as temples, mosques, churches.

8. So far as new aerodromes are concerned, para 4.1.1.1 of the recommendations indicates as to how new aerodromes are to be planned and it is suggested that the same should be located sufficiently away from the city and adequate boundary area should be allocated for the purpose such that residential construction may come up only beyond that area. Para 4.1.3 deals with the location of industrial areas and it indicates that the planners have, in the past, followed the practice of segregation in industrial zoning and to restrict certain areas of various types of manufacturing units. These areas have been arranged to be at different distances from the residential and commercial areas. This segregation may have been justified some years ago when the factories were put up in ugly ramshackle structures and caused nuisance in the form of smoke, odours, etc., and, ofcourse noise too. As a result, the planners allocated only such of the areas for industrial units which were not required for other purposes. This concept has since changed. Industry is now a part of community life and is an asset to the city because it not only gives employment to the citizens but also the industrial development helps to provide all the public services

required by the community. As a result, modern industrial colonies with well planned layouts and buildings are seen in many cities. It would not be correct to classify the industries only in terms of the usual 'light' and 'heavy' industries, as such a classification does not indicate the performance characteristics from the noise point of view. An industria.....

noisier than another unit classified as 'heavy'. The classification may be based on the noise vibration produced by them. Their performance standard in this respect alone, should decide their zoning. The boundary noise level need to be specified and the boundary earmarked accordingly.

9. With regard to control of industrial noise in the existing cities, in paragraph 4.1.4, the following recommendations are made :-

4.1.4. Control of Industrial Noise in the Existing Cities.- The control of industrial noise in the existing layout of the cities is undoubtedly
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noise producing industrial/non-industrial units to another area away from the residential and commercial community. But the question does need to be studied in order to plan their shift in stages, and for future, necessary restrictions should be imposed, by means of local regulations/legislations in order to prevent location of further industrial buildings and/or noise producing equipment in the residential / commercial areas.

10. In the instant case, it is not the case that in existing city, the industrial unit is established, but the place was an industrial zone meant for industries only. If, in an industrial area a housing colony comes up and if the persons residing there are making grievance about noise pollution, the complaint cannot be entertained as such persons ought to have known about the nature of the area, and the zone in which such premises is constructed before occupying such premises. They have preferred to occupy the residential premises with open eyes and with knowledge of the fact that nearby the premises, industrial units are situated and the very location of the premises is in the midst of an industrial zone. Moreover, the unit in question was in existence

first in time and the residential premises came into existence subsequently. If in an industrial zone a residential place is constructed in a particular pocket of the industrial zone, persons residing at such place cannot make grievance that the industrial units are making noise.

11. Learned counsel Mr. Shah submitted that the unit is willing to accept any suggestions from the GPCB to reduce the noise. Mr. Shah submitted that as pointed out in the aforesaid ISI booklet, the unit has provided a solid barrier and have also planted trees in their factory premises. He further submitted that the unit will plant more trees and shall also increase the height of the solid barrier if so suggested and if it is not dangerous otherwise. GPCB shall look into this issue and advise the unit accordingly. Despite that, if the unit does the plantation on its own, it would be much better. Mr. Mehta, learned advocate for GIDC states that the unit will be allowed the plantation outside its premises in the land belonging to GIDC.

12. In view of what we have stated above, we do not find any reason to entertain this petition, and this petition stands rejected. Notice is discharged.

csm./ -----